

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
v.	§	No. C-03-cr-222
	§	C.A. No. C-08-186
FRANKIE VASQUEZ,	§	
	§	
Defendant.	§	

**ORDER CONSTRUING MOTION AS MOTION PURSUANT TO
28 U.S.C. § 2255 AND ORDER SETTING BRIEFING SCHEDULE**

Frankie Vasquez (“Vasquez”) was sentenced by this Court on December 18, 2003, and judgment was entered on December 24, 2003. (D.E. 16, 17.) On March 3, 2008, he filed a civil case that included a number of claims challenging his conviction or sentence herein. By Order entered April 22, 2008 (D.E. 18), United States Magistrate Judge B. Janice Ellington gave notice to Vasquez that his March 3, 2008 filing would be construed as a motion to vacate, set aside, or correct his sentence, pursuant to 28 U.S.C. § 2255, and also gave the warnings required by Castro v. United States, 540 U.S. 375 (2003). The Clerk was directed to mail Vasquez blank § 2255 forms, and the order gave Vasquez thirty days to take any action he considered appropriate, including withdrawing his motion or supplementing it with any additional claims. (D.E. 18.) His response was required to be filed not later than May 22, 2008.

To date, the Clerk has not received anything from Vasquez, nor has Vasquez returned

the completed forms. Accordingly, all claims challenging his conviction or sentence contained in his petition received by the Clerk on March 3, 2008 (D.E. 19), are hereby construed as a motion pursuant to 28 U.S.C. § 2255. The Clerk shall change Docket Entry 19 to reflect that it is a § 2255 motion and shall open a corresponding civil case.

It is ordered that the United States shall answer Vasquez's § 2255 motion not later than sixty days after the entry of this Order. It is further ordered that the United States provide, at the time of its answer, transcripts of all pertinent proceedings that are not already part of the record. Relevant affidavits, if any, are also to be filed with the answer.

Pursuant to Rule 5(d) of the RULES GOVERNING SECTION 2255 PROCEEDINGS FOR THE UNITED STATES DISTRICT COURTS (2008), Vasquez may file a reply not later than thirty days after service of the government's answer.

It is so ORDERED this 9th day of June, 2008.


HAYDEN HEAD
CHIEF JUDGE